



### A Brief On Child Labour For Parliamentarians



**THEY WORK FOR YOU. WILL YOU WORK FOR THEM?**



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CAMPAIGN AGAINST CHILD LABOUR

## About the Campaign Against Child Labour

Campaign against Child Labour (CACL), was initiated in November 1992. Its goal is eradication of child labour. CACL is against all instances of child labour that are exploitative and which retard a child's growth in any field of work, including the home. The campaign aims at creating an environment towards eradication of child labour.

### Objectives of the Campaign

1. Mobilisation of public opinion for the eradication of child labour through media based awareness and sensitization programmes.
2. Ensuring diversity and broadening of the Constituents to the campaign and linking with other issues, movements, struggles towards more equitable and just development.
3. Promote research and documentation, facilitate direct involvement and search for alternatives in specific sectors of child labour.
4. Intervening in specific cases of violations of child rights and abuse of children.
5. Examining implications of national and international initiatives on child labour.
6. Popularizing the U.N. Convention On The Rights Of The Child, 1989 and ILO Conventions on Child Labour.

### Moving Towards Our Goals

**Networking :** The campaign networks presently with more than 300 organisations, shares informative material with many others like goverment officials and interested individuals.

**Alliance building :** Alliances with other struggles and movements are imperative for the Campaign. The Campaign has had one meeting with representatives of Central Trade Unions. The Campaign hopes to continue to coordinate with trade unions as well as initiate meetings with other human rights groups.

**Awareness Building and generation of media material :** CACL bringings out publicity materials such as posters, newsletters, stickers. It is involved in mobilising public opinion by utilizing print media and approaching other mass media. CACL State Groups have also been organizing village, district and state level meetings, seminars, and workshops.

**Involvement in Cases of Child Rights Violation :** Violations of Child Rights were highlighted by intervening in specific cases that involved deaths of working children or gross abuse. CACL groups undertook sub-campaigns through press releases, post-card writing, street plays and posters, involving common people, children, government officials and NGOs.

**Strengthening Grassroot Efforts :** Most of the organisations associated with the Campaign have been intervening in situational problems at the field level, providing education to child labourers, freeing bonded children and rehabilitating them, providing essential services, interfacing with implementing auth...

CACL will raise these issues collectively and would inturn strengthen grassroot movements. The Convention of Child Labourers, that is to express their hopes and demands.

**Examining Present Conditions :** The campaign on child labour has encouraged the Legal Working Group. A review of the situation is underway. We have also been critical of bills like the Harkin Brown Bill, Social C...

**The CACL invites all concerned to demand for**

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**They work for you  
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*Foreword*

"They work for you Will you work for them?" is a publication of the Campaign Against Child Labour (CACL). This Brief focuses on child labour which is seen everywhere but is not given the notice it warrants. CACL believes that addressing child labour as a welfare issue must be replaced with an exercise of political will, for which it must be brought onto the political agenda. This Brief informs Parliamentarians about the issue of child labour and underlines the alternatives and measures in this regard. We hope it will be used by Parliamentarians and others working in the legislature and corridors of power to initiate discussion on the issue and raise questions in Parliament and other respective forums. CACL seeks to enlist your solidarity in eradicating child labour by providing information that you can make use of, to initiate and pressure for action. We hope you will find it useful.

*Campaign Against Child Labour  
January 1995*

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## Contents

Introduction	3
Some definitions	5
How many children work in India ?	6
Where do these children work?	7
What causes children to toil	11
Debates in Parliament	13
The constitution of India - What it says about Child Labour	14
International Provisions	14
Legislation related to child labour	15
Economic policies, international pressures and child labour	18
Some alternatives : What you can do to help	20
Bibliography	24
References	28

## Introduction

Have you ever really looked at a working child? Have you stopped and thought just a moment about the child workers around us who contribute to so many areas of our material lives without us contributing in any way to theirs?

- India fosters the largest number of child labourers in the world.
- Countless children in India begin work by the age of four.
- Child workers toil, at an average, for 12 hours every day.
- Child labour contributes to 20% of India's GNP<sup>1</sup>.

### In return the children receive :

- An average salary of Rs 90 a month<sup>2</sup>.
- Emotional and often physical abuse.
- Incalculable damage to their health before they are even 14.
- Paltry access to education, food, water and shelter.
- The complete loss of their invaluable childhood.
- An underpaid or unemployed status as adults.
- And an entire lifetime of frail health and incurable poverty.

### Why are we allowing this to happen?

Article 39 (f) of the Constitution promised, 45 years ago, to protect children "against exploitation and against moral and material abandonment". But generations of children since India's Independence have lost their childhood in labour and are now many millions of uneducated, undernourished, underpaid or unemployed adults. Is this the kind of India we want to perpetuate?

Or is theirs an India that you are going to forget exists?

Some recent events might indicate the opposite :

On August 15, 1994, the Prime Minister, Mr. P. V. Narasimha Rao, said child labour should be eliminated from hazardous industries.

Days later, Mr. P. A. Sangma, Union Labour Minister, announced a Rs 850 crore plan to "liberate" two million children from hazardous employment and to rehabilitate them within five years.

At a meeting preparatory to the World Summit on Social Development, Copenhagen, March '95, the Indian delegation pledged it will try to eliminate child labour by the year 2000<sup>3</sup>.

The actual results of this activity are likely to be negligible. Past evidence indicates that the government's proposals, policies, plans and promises about child labour remain empty statements of intent; they are not followed by effective action.

The fact that eight years after passing the Child Labour (Prohibition and Regulation) Act in 1986 the government should still be talking of liberating child labour from a handful of hazardous industries, is clear evidence of its complete lack of seriousness about solving the problem.

It is imperative that the ban on child labour in all hazardous industries is effectively and immediately implemented. But the government and some other agencies believe that the complete abolition of child labour is an unrealistic goal for India and that child labour can only be regulated to safeguard the interests of working children. Regulation should be accepted only as an interim measure. **An official policy must be targeted towards the abolition of child labour in India.**

The issue of child labour is inextricably linked with the overall need for social change, land reforms and alternative models of development. However, groups in India working for children's rights, underline the fact that children cannot wait for long-term social change. **The problem must be intercepted immediately.**

At a time when our country is trying to construct an image of economic buoyancy, it would be an aberration to ignore such massive problem areas as child labour. We cannot enter the year 2000 with millions of children still trapped in relentless labour. **It is crucial that you, as a person in a position of power and influence, offer help. You owe it to India's children.**

## Some definitions

A child, according to Article 24 of the Constitution of India, and according to the Child Labour (Prohibition and Regulation) Act of 1986 is a person below the age of 14 years.

The Encyclopaedia of Social Sciences defines child labour as: "When the business of wage-earning or of participation in self or family support conflicts directly or indirectly with the business of growth and education, the result is child labour. The function of work in childhood is primarily developmental and not economic. Children's work then, as a social good, is the direct antithesis of child labour as a social evil."

Groups concerned with children's rights differentiate between child work and child labour. Child labour is that form of work which is detrimental to the growth and development of the child. Family work which interferes with a child's education, recreation, or physical, mental or moral health is also considered child labour.

The ILO in a report in 1983 said, "Child labour includes children leading adult lives, working long hours for low wages, under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future."

## How many children work in India ?

Different computations of the magnitude of child labour in India estimate varying numbers :

- 15.1 million : ILO's Global Labour Force report, 1975.
- 16.25 million : The National Sample Survey, 1977-78.
- 13.6 million : The 1981 Census
- 17.36 million : The Planning Commission, 1983.
- 44 million : The Operation Research Group, Baroda, 1983.
- 111 million : The Balai Data Bank, Manila. If nearly half of India's over 800 million population lives in poverty, the number of working children in India is likely to be over 100 million.
- 20 million : Labour Minister, August 1994, when he announced a plan to "liberate" 2 million working children.

All these estimates fall short of the actual figure for a number of reasons :

- Multiplicity of definitions.
- Different methods of estimation.
- Diverse sources of data.
- Lack of information on the vast unorganised sector of the economy which, in fact, employs the most children.
- Under-reporting in industries where child labour is regulated.
- Non-inclusion of domestic workers.

***The existence of child labour in whatever magnitude should be a matter of concern for parents, society and the State.***

The girl child in India requires special mention in the context of child labour. She is a child, a girl and labourer and she faces discrimination on all counts. In almost all areas, rural and urban, where children are employed, the percentage of girls is higher than boys, according to the 1981 Census. For instance, girls constitute 70% of child workers in the weaving industry and in the match industry 90% of the workers are girls and women. A status report on Indian girls in the 5-14 age group says the number of girl workers went up from 4.6% in 1971 to 7.8% in 1981.<sup>4</sup> A girl's labour for the home, such as fetching fodder, water and fuel, because it is non-remunerative, does not get classified as child labour.

## Where do these children work?

What follows is only a brief outline. Detailed statewise data is accessible. But the available data is acutely inadequate. You could initiate and assist in generating more information. More than 80% of working children in India belong to rural areas and work in the primary sector of the economy. According to the 1981 Census, about 86.4% of the child work force is employed in agriculture and allied activities. Often, the work of the child replaces the work of an adult who has gone to the city to work.

For effective strategies, it is necessary to classify the areas in which children are employed. The prominent groups are :

### Hazardous industries : At risk at work

Child labour is often understood in terms of "hazardous" and "non-hazardous". Such polarised categorisation is misleading. All forms of child labour are hazardous and interfere with a child's normal growth and development, in varying degrees.

The Child Labour (Prohibition and Regulation) Act, 1986, lists 11 Industries as hazardous because they are clearly detrimental to the child. These are :

- brick-making
- carpet-weaving
- cement manufacture
- cloth printing, dyeing and weaving
- manufacture of matches, explosives and fireworks
- mica-cutting and splitting
- shellac manufacture
- soap manufacture
- tanning
- wool-cleaning
- the construction industry

Industries like zari-weaving, glass manufacture, lock-making, gem-polishing, rag-picking, cleaning sewers, and many others are "non-hazardous" by law, but are in reality highly harmful.

The next section is a glimpse at just a few hazardous industries, which are a dot in a colossal sphere. Numerous reports on this subject are available with child rights groups.

### The match and fireworks industry

The fireworks industry in Sivakasi, Tamil Nadu, which supplies 95% of the country's fireworks, till 1982 piled up Rs 150 crores as profit every year.<sup>5</sup> The profits in the '90s would have multiplied several times. Estimates of the number of children in Sivakasi's fireworks industry range from 30,000 to 70,000.<sup>6</sup>

The Rs 1000-crore match industry in the region supplies over 55% of the country's matches. A state-sponsored study in 1993 showed there were 65,000 children working in the match industry.<sup>7</sup>

Children, aged between three-and-a-half and 15, work in dark and grimy sheds, sitting crouched, handling dangerous and poisonous chemicals. They are carried in buses from their villages to the work sites from 3 am to 5 am and returned home between 6 pm and 9 pm. During the busy season a weekly off day is denied.<sup>8</sup>

Children are exposed to numerous hazards which include: the possibility of getting burnt while handling the matches, inhaling lungfulls of toxic fumes, high degrees of intense heat and the risk of serious injury in fire accidents.

### The glass industry — A fragile existence

In the glass industry of Firozabad, UP, about 25% of the two lakh workers are children upto 15 years of age.<sup>9</sup> The children are engaged in almost all the processes of glass manufacture, including jobs near the furnace. An International Labour Rights, Education and Research Fund

report notes that the temperatures of the furnace range between 1400°C to 1600°C.

The most hazardous job for children is to carry the molten glass on a long rod. They have to run at a fast speed on a floor which is strewn with glass pieces and naked wires, so that the molten material does not get cold.<sup>10</sup> Children sit on the floor for hours in front of the flaming furnaces, melting and fastening glass bangles and beads. No worker wears protective equipment.

The workers have to constantly inhale toxic fumes emanating from the boiling glass, the colouring substances, and the coal furnaces which damage the lungs, liver and other vital organs. Prolonged exposure to the extraordinary heat leads to various grades of skin burn and

irreversible visual damage. Children also suffer mental retardation and genetic damage.<sup>11</sup>

The Firozabad glass industry produces bangles, utensils, electric bulbs, gift articles and other items; just the bangle industry is worth Rs 400 crores.<sup>12</sup> Factory owners claim they are helping the poor by employing their children. But if factories did not employ children, production would drop by 25%.<sup>13</sup>

**Labour laws prohibit such employment. Section 67 of the Factories Act says, "no child who has not completed his 14th year, shall be required or allowed to work in any factory".**

In 1992, India exported more than \$2 million worth of glass and glassware to the United States.

### **Bonded Labour : Children in Chains**

The Indian National Commission on Rural Labour in a 1991 report said. "The age-old inhuman system of bonded labour combines the worst and extreme features of exploitation..." The United Nations Special Rapporteur identifies child bondage as "the ultimate stage in the exploitation of child labour".<sup>14</sup> Bondage is enslaving; it enables the employer to assume ownership rights over the child. The child is "sold" for a small amount of money, borrowed for various purposes. Once sold, he/she loses all basic rights. Rural indebtedness is one of the most important causes of child labour in India. Up to 73% of child labourers are mortgaged into work by their own parents or guardians.<sup>15</sup>

A 1981 study of the agricultural sector conducted by the Gandhi Peace Foundation and the National Labour Institute in 10 states estimated that of India's 2.6 million bonded labourers, 8.1% were children.<sup>16</sup>

### **Exports**

Export-oriented industries are in fact a significant sector of child employment. It is estimated that about 8% of the total number of child labourers work in this sector. Major export industries which utilise child labour include hand-knotted carpets, gemstone polishing, brass and base metal articles, glass and glassware, footwear, textiles and silk, and fireworks.

In 1976, India adopted the Bonded Labour System (Abolition) Act. Section 4 of the Act states that "the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour".

India had the shameful distinction at the 75th International Labour Conference in mid-1994 of being singled out as a "special case" for its failure to deal with forced or bonded labour, especially bonded child labour. This is the fifth time the issue has come up before the Committee in the last 10 years - a period during which almost all the major political parties have held power at the centre or in particular states.<sup>17</sup>

**Why has the government failed to ban bonded labour?**

### **The carpet industry**

The South Asian Coalition on Child Servitude estimates there are 300,000 child workers in this industry. Children as young as seven years weave and knot carpets in Uttar Pradesh, Kashmir, Bihar and Rajasthan. The Mirzapur-Badohi belt in UP is the most important centre of carpet production. About 80% of India's carpet export is from this region. One study

estimates 50,000 children are employed in this belt, excluding casual helpers.<sup>18</sup>

Children work for 12 hours daily, sitting on their haunches or with legs dangling down pits to get close to the thread. Unventilated workplaces ruin their eyes, they get lung diseases from inhaling wool fluff, knotting makes their hand joints stiff and arthritic; by the age of 30, they are unemployable.<sup>19</sup>

Even a decade ago, to promote export of carpets, the government gave annual subsidies of upto Rs 25 crores to about 300 manufacturers in UP. Export of Indian carpets have increased from Rs 330 crores in 1992-93 to Rs 460 crores during '93-94.<sup>20</sup>

Yet : In 1988-89, at a total expenditure of Rs. 11.94 lakhs, the government could set up only 10 special schools for 500 out of an estimated 50,000 child weavers in UP.<sup>21</sup>

**Who is the government really interested in helping?**

#### **Gemstone polishing**

In 1993, India exported more than \$1 billion worth of gems, which is the single largest export by value from India, to the US. The majority of these exports are diamonds processed and polished in Surat, Gujarat, and emeralds polished in Jaipur, Rajasthan. Estimates of the number of child workers in these industries vary from 6,000 to 100,000<sup>22</sup>.

In 1993, the Operation Research Group, Baroda, reported that in the diamond-cutting industry of Surat children work in abysmal conditions. The study found major health and safety problems, including eye strain, headaches, leg and shoulder pain, malaria, discolouration of hair, rotten teeth and dysentry.

### **Unorganised workers**

A major section of the workforce in India is "unorganised": workers who have not been able to form unions. Children in factories are not counted as workers because their employment is illegal. **The law does not allow children to form a labour union.**

The vast unorganised sector manage to evade all laws (such as the Factories Act of 1948) and regulations covering such industries because of

the small size of the units or by falsification of records. Many of these units or industries, inspite of their apparent unorganised status, are highly organised or are direct links in a vastly organised system. Exploitation of child labour in these units is actually perpetuated by the involvement of the bigger and formal sector.

Prohibitive regulations related to child labour in the "organised" sector often tend to push child workers deeper into the unorganised sector. ●

### **Child labour in the cities**

The urban unorganised sector accounts for a whole army of child labourers who work as: domestic workers, sex workers, helpers in restaurants, shops, canteens and garages, hawkers, paper vendors, porters, shoe-shine boys, sweepers and scavengers, workers in small workshops, on construction sites... the list is extensive.

#### **Prostitution**

"Child prostitution is the sexual exploitation in cash or in kind, usually but not always organised by an adult intermediary": (Special Rapporteur, 1991). It is deeply dehumanising.

A survey done by the Central Social Welfare

Board in six major Indian cities in 1991-92 revealed that 29.38% of all prostitutes were below 20<sup>23</sup>. According to another estimate, 300,000 minors are engaged in prostitution in India. A study in Bombay estimated that 20% percent of the city's prostitutes are minors<sup>24</sup>. A child prostitute, once she is trapped in the trade, has little chance of education or an alternative occupation.

The government's efforts at promoting tourism could indirectly contribute to child prostitution, like it has in Thailand and the Philippines. The government has cleared approximately Rs 39,500 crores for tourism. We still have over 46 million girls who are illiterate.<sup>25</sup> Who sets these priorities?

### Street children

Children living and working on the streets in cities constitute one of the most vulnerable group of child labourers. One study estimates there are 35,000 street children just in Bombay.<sup>26</sup>

Street children do various forms of work; one of the commonest, because it is relatively easy to start, is rag-picking. Wading through and living off garbage is not listed as hazardous in the law, nor is it classified as an "industry". Delhi's Deputy Labour Commissioner has said, "It is self-employment."<sup>27</sup>

Poverty alone or even public apathy cannot explain away the fact that many thousands of our children spend their childhood rummaging through dustbins and heaps of filth to pick rags, waste paper, used polythene bags and bits of broken glass or scraps of metal to enable them to earn a few rupees a day, which is often not enough to buy them even dry *rotis* and *dal*. They often look through the same dustbins to pick up food thrown away by others.

Working in garbage is extremely destructive to self-worth. It is also obviously unhygienic. Rag-pickers are exposed to skin infections, cuts from glass and metal bits in the scraps and possible tetanus, intestinal diseases due to eating leftovers found in the garbage, physical and sexual abuse, drug addiction. And all this with absolutely no prospect of medical or any other form of assistance.

### Hotel workers and domestic workers

Children living on the street or in slums often find work as helpers in hotels. One study estimates there are 50,000 child workers employed in the 11,750 hotels, restaurants and canteens in Bombay<sup>28</sup>. These children work for ten or more hours a day, get poorly paid, have little access to education or health facilities and are vulnerable to physical and sexual abuse.

Domestic workers in cities constitute the largest urban child labour force. A study in 1988 by UNICEF reported that one in every sixth child in Delhi works, and that one in every four of these was a domestic worker. The majority of domestic workers are female, since society sanctions such work for women.

Besides, in both urban and rural India, girls are also often engaged in caring for younger siblings, cooking, cleaning, fetching water, fodder and fuel. These activities deprive them of several rights but are often not considered labour because they are non-renumerative. A study in 1985 estimated that by the time she ceases to be a child, the girl in rural India has contributed to the family the equivalent of Rs. 39,000.<sup>29</sup>

Often, domestic work becomes a form of bonded labour when a child lives with and works for her/his employers. The child is denied many rights: education, recreation, adequate food, off days. She/he works hard, gets inadequately paid, and at times get beaten.●

## What causes children to toil

No single cause can be isolated for the prevalence of child labour. It is inherent in the cycle of poverty and unemployment brought about by asymmetrical approaches to development. Poverty in itself does not cause child labour.

Justice P. N. Bhagwati has said, "There is a myth that child labour is the result of widespread poverty... This myth has to be dispelled... Child labour is one of the factors which perpetuate poverty and it is not right to condone it as a necessary concomitant of poverty."<sup>30</sup>

Child labour is caused by an inequitable economic system which ensures that the benefits of economic growth are not shared by all. This results in poverty and other socio-economic problems. The disprivileged majority in India pays in terms of :

- **Chronic poverty** : Nobody is certain how many Indians are poor, or what exactly poor means. By a conservative estimate 210 million Indians survive below even the destitution line.<sup>31</sup>
- **Lack of land reforms and appropriate rural development** : Land is the major source of livelihood for the majority of Indians. One survey reported that 10% of the population own 90% of the land; the rest have to submit to the dictates of this minority.
- **Displacement of tribal and rural populations and/or migration to urban areas in search of a livelihood** : Even over 20 years ago, in 1971, the total number of migrants just to Bombay was 4,54,910. Of these, 59,938 were children.<sup>32</sup>

These and other consequences of an unequal system are macro factors which eventually lead to child labour. At the level of the individual child, labour is forced by various related factors :

- ◆ A poverty - afflicted family which forces each member to take on an economic function,
- ◆ Broken homes which cause children to run away and find means of supporting themselves,
- ◆ Death of earning members of the family,
- ◆ Work as a form of repayment of family debt.
- ◆ If it is not to repay debt, parents are lured by the hope that the meagre family income will be supplemented by the child's earnings and that the child will learn a skill which might ensure a better job in future.

### Child labour is also perpetuated and further legitimised by

- Propagation of false beliefs such as the "nimble finger theory" which argues that the dexterous hands of a child are essential for the production of articles like high-quality knotted carpets. Child productivity is equal to or lower than that of adults.
- The notion that employers are actually doing a favour to the children and their families by providing jobs and subsistence wages. The only favour the employers are doing is to themselves.
- The proliferation of agents who go around villages recruiting children for jobs. The option of sending a child to work is often suggested to a family and actively promoted by contractors.
- Reluctance of officials to enforce the law because of a belief that this would deprive a family of vital income and perhaps lead to the closure of

the industry if all child workers were removed from it. A study of the match industry in Kerala has pointed out that about 800 units exist profitably in the state without employing even a single child.<sup>33</sup> It is absolutely shameful to argue that an industry might collapse without child labour. It amounts to saying our economy is dependent on our children when our children should be able to depend on us for sustenance.

## Two other vital factors need to be highlighted

### Unemployment : Jobs for children, not for adults

In 1990 India had 342.86 lakh unemployed persons registered with employment exchanges<sup>34</sup>. The actual number would be higher.

The new economic policies during 1991-92 to 1993-94 means that employment would be lower by as much as 8 to 10 million persons per year during the next 2 years. By 1995, the number of unemployed is expected to reach 55 to 60 million.<sup>35</sup>

Between 1976-86, the public sector contributed an average of 436,000 workplaces every year. By end 1990 that figure had fallen to about 319,000.<sup>36</sup>

**How does a country which cannot find jobs for 36 million adults find ample space for 44 million child labourers? A clear link exists between adult unemployment and child labour.**

One significant reason why adult unemployment continues and so does child labour inspite of some efforts to counter it, is that it serves the interests of a small but powerful group which helps perpetuate child labour because it is cheap and profitable. Children can be poorly paid, easily exploited and bullied into obedience, into working for long hours and doing any kind of work. They can be kept in a state of fear and they are unable to organise themselves against exploitation the way adults could.

### Education — or the lack of it

"Neither tradition nor economic necessity can justify child labour": President Mr. Shankar Dayal Sharma, at a teachers' day function in September, 1994.<sup>37</sup>

About 40% of India's population of about 850 million is below the age of 14.<sup>38</sup> In 1980-81, according to the Ministry of Human Resource Development, about 94 million children between the ages of 6 to 14 were enrolled in school.<sup>39</sup> Millions - 40 million according to the 1981 Census - drop out. Only 36.23% of India's population was literate according to the 1981 Census.

No access to education increases or ensures the chances of a child entering the labour force. Illiteracy ensures that the child remains an unskilled or unqualified labourer forever, with no hope of upward social or occupational mobility or of freedom from oppression. And even the education that is doled out to a few is low in quality and its content is usually irrelevant to generating employment in a rural situation.

Article 45 of the Indian Constitution provides that the State shall endeavour to provide, within a period of ten years from the commencement of the Constitution, for free and compulsory education for all children until they complete the age of 14. **The Indian government reduced the funds allotted to education by Rs.801.3 million in the 1991-92 budget.<sup>40</sup>**

## Debates in Parliament

During the legislative assembly debate in India in 1920 (required in order to ratify ILO's Convention 5) the question of raising the minimum age of working children from 9 to 12 years created a furore. Child workers between the ages of 9 and 11 formed 59% of the child labour force. The protestors said if the minimum age were raised, it would upset the organisational set-up of many factories, that machinery designed for children (for instance, in the textile mills of Ahmedabad) would become obsolete!

Members of the Legislative Assembly, some of whom were factory owners, argued that not allowing children of the poor to work would lead to greater misery and hardship for their families. One member stated that India should not ratify the Draft Convention of the ILO regarding the minimum age, since conditions in India were different from those in western countries<sup>41</sup>.

**These arguments are familiar even today. How is it that not many members of parliament argue as animatedly in favour of helping working children in ways other than ensuring that they keep toiling?**

Even today there are two opinions even on the question of abolition of child labour: those who think that it should be banned since it is detrimental to the child and is against the Directive Principles of the Constitution, and those who think that work in itself is not bad for the child, but becomes negative only when it is hazardous. They argue that child labour should be regulated to safeguard the interests of the child.

In 1986, when Parliament passed the Child Labour (Prohibition and Regulation) Act, it only banned child labour in an ill-defined category called "hazardous industries". Otherwise, child labour is permitted subject to the provision of educational and recreational facilities, minimum wages, weekly restdays, hygienic working conditions and a ban on overtime.

Members have also argued that child labour is the result of poverty, and since poverty cannot be easily eradicated, it would be better to regulate child labour in some industries and not ban it entirely. But studies have shown that children are the cheapest labour. Child labour contributes to poverty.<sup>42</sup>

Some see regulatory measures as an interim step towards the eradication of child labour: that as a part of this long term goal child labour at least in non-hazardous industries could be converted into "child work" by regulatory measures. This should be accepted only as an interim measure. An official policy must be targeted towards the abolition of child labour.

**We urge you to continue, with passion, the debate in Parliament.**

## The constitution of India — What it says about Child Labour

Independent India made grand promises to its children in its Constitution, which came into force in 1950.

- Article 24 of the Indian Constitution states: "No child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment".
- Article 39 (e) states: "That the health, strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength."
- Article 45 states : "That the State shall endeavour to provide within a period of ten years... for free and compulsory education to all children..."

## International Provisions

The ILO has adopted 18 Conventions related to children and labour. Of these 11 have not been ratified by India. Most of those our country has not ratified are related to minimum age and medical examination. India has also not ratified Convention 138 of 1973, which calls for the pursuit of a national policy designed to ensure the effective abolition of child labour.

India is a signatory to the United Nations Convention on the Rights of the Child, which was adopted by the UN in 1989. It recognises (in Article 32) "the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous, or interferes with the child's education, or to be harmful to the child's health, or physical, mental, spiritual, moral and social development".

But India's endorsement of Article 32 of the Convention is highly conditional. The text of India's declaration includes limitations like: "certain of the rights of the child... can only be progressively implemented in the developing countries, subject to the extent of available resources; ... noting that for several reasons children of different ages do work in India; ... it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India..."

Such conditions contradict the provisions of other Articles in the Convention which emphasise the rights of the child in various areas of life, such as Article 6, paragraph 2, which says, "State Parties shall ensure to the maximum extent possible the survival and development of the child." The conditions also make India's endorsement almost meaningless for the working child.

## Legislation related to child labour

Over the last 100-plus years, 24 laws have been passed in India which relate to child labour. The first in this series was the Factories Act of 1881, which provided for a minimum age of seven years, and covered factories employing 100 or more workers.

Six subsequent Acts till 1954 dealt with factories. The new laws raised the minimum age for employment to 14 years and redefined a "factory" to mean a place where 20 or more persons worked.

The other Acts included laws related to employment of children in mines, ports, plantations, shipping, motor and goods transport, bonded labour, bidi and cigar manufacture, and night shifts. All Acts attempted to define a "child" and arrived at different measures: the Mines Act of 1901, the Indian Ports (Amendment) Act of 1931 and the Plantations Labour Act of 1951 calculated 12 or less as the age of a child; the Merchant Shipping Act of 1958 and the Motor Transport Workers Act, 1961, prohibited employment of children under 15, except in specified areas on ships.

### The Gurupadswamy Committee : Report on child labour

A committee on child labour, chaired by Mr. M. S. Gurupadswamy and instituted by the ministry of labour, published a detailed report in December, 1979.

The report said, with reference to the law, "The existing legal framework for employment of children in India is dispersed and patchy. This has been one of the prime reasons for a missing focus in the efforts which have so far been made to regulate the employment of children in some sectors of economic activity..."

"... the Committee got a clear impression of several inadequacies in the administrative set-up for the implementation of laws. There were practically no prosecutions in most parts of the country..."

"Considering the situation, the Committee is strongly of the view that there is a paramount need for an urgent action on the part of the government to bring the law relating to employment of children into proper focus..."<sup>43</sup>

As a result of this report and due to the efforts of a voluntary group involved in the issue of child labour, the government, in 1986, passed the Child Labour (Prohibition and Regulation) Act.

But, the Gurupadswamy Committee had also said, "The enactment of the law is only a first step. What is really important is its enforcement." The government has ignored this advice.

### The 1986 Law

On December 23, 1986, the Indian Parliament passed the Child Labour (Prohibition and Regulation) Act. The provisions of this Act overruled all those other Acts relating to child labour.

The government of India had also formulated a National Policy on Child Labour (which was also an Action Plan for Prohibition, Regulation and Welfare of Child Labour) along with the enactment of the law by Parliament in 1986.

The policy focuses on four essentials: education, health, nutrition and anti-poverty programmes. But appended phrases and clauses such as "if/whenever possible" and "consistent with availability of resources", limit its implementation. The issue of child labour is delinked from the problem of survival and development of children and the responsibilities are divided among departments with no apparent connecting links and plans.

In September 1987 the Central Advisory Board on Child Labour instituted a Task Force chaired by Mr L M Sanghvi, senior advocate, to recommend the mechanisms necessary for implementing the Act and the Action Plan contained in the National Child Labour Policy. (The policy and the plan are nearly identical documents. There is no real Action Plan). The Task Force submitted its report in December 1989.

The report outlined both the positive and the negative aspects of Act. The limitations, which outweighed the positive parts, are:

- By defining a child as a person who has not completed 14 years of age, the Act, which overrides other child labour legislation, lowered the age for a child's entry into some prohibited employments such as motor transport, shipping and factories.
- The new Act does not include Section 3 (2) of the Employment of Children Act of 1938, which prohibited night employment of persons below 17 years of age.
- Many of the children working in the agricultural sector and some of those working in the unorganised sector would appear to be outside the regulatory reach of the Act.
- The new Act omits Section 3(B) of the 1938 Act which requires that a notice be sent to the labour inspector before any of the prohibited processes are started in any workshop. As a result of this omission, the burden of tracing down such processes is now shifted on to an understaffed Labour Inspectorate or to individuals.
- The definition of the word "establishment" in the new Act, if applied literally, would preclude child labour employed in homes.
- The Act considers physical harm as the basis to ban child labour in certain industries. Its list of "hazardous" industries is ill-defined and inadequate. It covers only a fraction of working children.

"The truth is that most occupations and processes with an extremely high number of child labourers fall outside of its purview," notes Dr. Babu Mathew of the National Law School.<sup>44</sup>

The report of the Task Force says... "It (the Act) does not embody mandatory provisions for health care, nutrition and other such welfare measures, for levying

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a cess, for creating a National Child Labour Welfare Fund, for public consultative mechanisms in the functions of the Technical Advisory Committee, for strengthening and assisting the autonomous activities of voluntary agencies and for a speedy, informal and authoritative resolution of grievances and disputes by a special machinery..."

According to Nandana Reddy of the Concerned for Working Children "...The Act confines itself merely to the prohibition and regulation of child labour and that too only in the organised sector, leaving the implementation of welfare and development to a policy on child labour that lacks statutory status. This gives the impression of legalising child labour without making any effort to phase it out or to eradicate it. Further, the policy is vague. It talks of government pilot projects in selected areas where child labour is banned or is to be banned but does not mention any special provisions for the welfare of children who come under the regulated sectors..."<sup>45</sup>

Ms Reddy also warned of rehabilitation projects which cover only a certain number of working children. For instance, in Sivakasi, in 1988-89 a budget of Rs. 42.66 lakhs marginally reached 14,721 children and only 1500 through special schools.<sup>46</sup> "This could result in an imbalance that adversely affects the families of child workers in these banned sectors who are removed from their jobs but do not come under the project area," writes Ms Reddy.

The Task Force report adds, "... the Act of 1986 and the Policy are ... transitional measures. The least we can do is to keep the Act and the Policy under careful and constant review from the point of view of rectifying known defects and of accelerating the pace in the directions of the ultimate objectives."

The advice of the Task Force has been totally ignored by the government. For instance between 1986 and mid-1993, there were only 3,488 prosecutions under the Act, with only 1,426 convictions, in all of India. Another report says that since the Act was passed in 1986, the government has booked 4,950 offenders but has not obtained a single conviction.<sup>46</sup>

In early 1994 the Indian government did announce a number of changes in the Child Labour (Prohibition and Regulation) Act of 1986. Key among the changes are: stiffer penalties for the law-breakers, equalisation of adult and children's wages, shifting the burden of proof of a child's age on the employer rather than the complainant and extending the ban on child labour to industries other than the 11 where it is already banned. ***The proposed changes could be positive. But the true test lies in the implementation. Will the government act this time?***

## Economic policies, international pressures and child labour

"Somehow, the fact that ultimately everything depends on the human factor gets rather lost in our thinking of plans and schemes of national development in terms of factories and machinery and generally it is the human being that counts, and if the human being counts, well, he counts much more as a child than as a grown up": Jawaharlal Nehru, at a seminar, 1952.<sup>47</sup>

With the economic policies unfolding in the last few years the government is disinvesting in the public sector and handing over vital fields to the private sector. Privatisation may increase employment in some areas but it tends to lower labour costs. This in turn makes way for piece-rate contract work and child labour is used as a viable alternative.

Changes brought about by such policies reduce employment in the agricultural and industrial sectors due to retrenchment, closure of small scale units and displacement of small farmers by giant agro-corporations. Drastic changes in the agricultural sector due to privatisation would result in marginalisation and further displacement of rural and tribal families. This will cause further unemployment, which is one of the causes of child labour.

UNICEF's 'State of the World's Children', 1992 proposes a principle of a first call for children which was later reiterated by the Vienna Declaration of the World Conference on Human Rights. It suggests that the young should have a first call on society's resources. The UNICEF report says such a commitment "should not give way to the short-term demands of structural adjustment programmes".

The recent Structural Adjustment Programmes (SAPs), dictated by the World Bank and the IMF are going to increase the detrimental impact on child labour. Defective policies at the macro level worsen the plight of children at the micro level.

"A broad distinction can be drawn between the direct and indirect ways in which SAPs affect children. The direct impact of such programmes is felt through cuts in expenditures on health, education, nutrition programmes and social services that contribute directly to the well-being of children. Similarly, the rise in prices of food, education and other services that families purchase for their children has a direct impact on child welfare. Economy-wide changes in growth rate, in the level of unemployment, in real wages, in income distribution and in levels of poverty affect children indirectly by affecting the living conditions and resources of families to which the children belong," says Madhura Swaminathan of the Indira Gandhi Institute of Development Research, Bombay.<sup>48</sup>

The severe cuts in budgetary provisions for the public distribution system, poverty alleviation programmes, and other areas will adversely affect Indians who survive below the poverty line. In just 1992-93, the overall social welfare spending has come down by 16% with 10% less on health and 13% less on education in the national budget.<sup>49</sup>

## The Harkin Brown Bill

The increase in global trade competition invites the danger of lowering minimum labour standards, which would adversely affect child labour. GATT negotiations have included measures to regulate international trade by means of mandatory minimum standards, termed "social clauses". Such provisions have the potential of becoming a means of increased protectionism against developing countries.

By "internationalising" its economy, acceding to demands by economically developed countries, a nation loses its sovereignty. Sections of the GATT and the Dunkel Draft are examples of how the economically advanced nations try to impose trade sanctions on developing countries. At the other end of the spectrum are protectionist moves like the Harkins Bill.

The Child Labour Deterrence Bill, popularly known as Harkin's Bill, was introduced in the US Senate on August 5, 1992 by Senator Tom Harkins. The Senator said, "Our country ought not to import any item, from any country, that is made by child labour".

The credibility of the US when it talks about children's rights is questionable considering that America has not ratified the UN Convention on the Rights of the Child, 1989.

Although the Bill has not been passed by the US Senate, carpet manufacturers in India reacted with a number of self-regulatory mechanisms. But these can only remain superficial and can fulfil only some immediate needs of children in the industry; the real causes of child labour remain untouched.

Legislative measures by other countries against child labour in India are untenable. Solutions to the issue of child labour should emerge from our own context and perspective and not on terms dictated by another country. Foreign intervention of this kind helps us absolve ourselves and our governments of responsibilities and obligations towards our young citizens.

The RUGMARK initiative is a viable alternative in this context. "The demand that carpet manufacturers in the Mirzapur belt agree to affix a 'child labour' free label to products made by adults and to gradually phase out children from their manufacturing units seems to exemplify a more mature approach, provided it is a truly national initiative without any foreign intervention and that it will be combined with comprehensive development of the areas from which these children come," says Nandana Reddy, of the Concerned for Working Children.<sup>50</sup>

## Some alternatives : What you can do to help

"Perhaps the most important recommendation we would like to make to the government is to accord the problems ... of child labour an overriding priority ... translated in concrete terms in respect of funding, programmes and dynamic purposefulness": from the report of the Task Force, 1989.

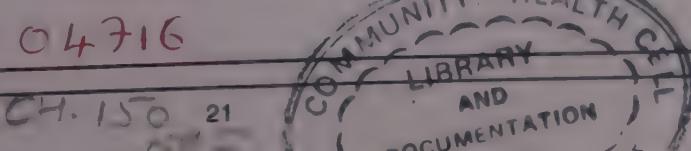
The Campaign Against Child Labour, supported by 300 groups in India working for children's rights, aims at the eventual eradication of child labour. This would involve a long-term process of social change along with immediate and interim measures. For the purpose of clarity, the potential strategies have been categorised in the following sections. It must be emphasised that the categories are complementary and not separate compartments, and that all measures are an ongoing process.

### Immediate steps

- 1) Child labour in all industries that are hazardous, as defined by law and also those outside this list that are clearly dangerous, must be banned. Bonded labour must also be banned.
- 2) India must ratify ILO Convention 138 of 1973 which calls for a national policy designed to ensure the abolition of child labour, and for raising progressively the minimum age for admission to employment. India must also unconditionally endorse the United Nations Convention on the Rights of the Child, 1989 and withdraw its observation to Article 32 pertaining to Child Labour.
- 3) Introduce a policy to provide compulsory, free, relevant and quality education for all children upto the age of 14. All existing 'compulsory' education laws in India merely establish the conditions under which state governments may make education compulsory; they are all 'enabling' laws, not 'enforcing' ones.
- 4) Stop all subsidies to industries which employ children.
- 5) As a member of parliament you could :
  - protest strongly everytime cuts are announced in social welfare budgets and lobby vigorously for increased allocations.
  - initiate and assist in collecting data on child labour, especially but not exclusively, in the state you represent.
  - include the issue of child labour in your party's manifesto and in your re-election campaign.
  - question any and every policy discussed in Parliament from the perspective of its potential impact on child rights.
  - keep the issue alive in Parliament by consistently raising questions related to child labour.
  - demand that a National Commission on Child Labour is set up to monitor the situation.

## Interim Measures

- 1) The Task Force report recommends, "... there should be a Joint Committee of the Houses of Parliament and a similar Committee in State Legislatures as a Standing Committee to represent the unrepresented constituency of the child."
- 2) A constant effort is crucial to ensure the 1986 law is being implemented; that the ban on child labour in hazardous industries and in bondage has been instituted and that conditions of work are being regulated -- less working hours, more wages, facilities for education -- in all other areas of child labour. Empower the labour department to take penal action against erring employers.
- 3) Children released from hazardous employment must be provided appropriate education combined with skills upgradation training. Rehabilitation of children released from employment is crucial. It is important to actively think about and work towards alternatives.
- 4) All party-affiliated trade unions, supported by MPs could:
  - Consult the ministry of labour and deliberate on concrete steps to abolish child labour and to implement the 1986 law.
  - Initiate constant reviews and careful modifications of the 1986 legislation and cognate Acts.
  - Propose to the government the institution of an Ombudsman in charge of protection of working children.
  - Promote full-time workers in charge of disseminating information on child labour in industries with affiliated unions.
  - Pressurise the government and importers through international trade union connections.
  - Help in rehabilitation projects for working children.
- 5) Assist and encourage non-governmental groups working in the area of child rights. Such work includes: generating awareness about the problem, promoting the right to useful education, data collection, rehabilitation programmes, and many other activities.
- 6) Set up commissions to investigate the problem of child labour in different regions and areas of work, to resolve grievances and to give authoritative directions to employers and others.
- 7) The government's child welfare service are divided among many ministries. Inter-sectoral and inter-departmental co-ordination is imperative. The Task Force report recommends, "... a single Ministry or Department for Child Welfare at the Centre as well the States to deal with the multitude of problems related to children, to reduce the multiplicity of authorities and to optimise operational coherence and co-ordination."



8) Progressive Implementation of the Policy of free and compulsory education for all children upto the age of 14. But our existing system of education needs to be restructured and reoriented. If this does not happen, free compulsory education might only add to the numbers on the unemployment register. This does not imply that children should wait to go to school till the entire system is improved. Children must be provided all possibilities for education immediately. The task of restructuring should be a simultaneous process. Even if, to begin with, the children just attain skills of literacy and numeracy, that itself is a step forward.

In many countries, with conditions comparable to Indias, the enforcement of compulsory education has proved to be less difficult than the enforcement of child labour laws; education laws have preceeded child labour laws and their enforcement reduces or eliminates child labour.<sup>51</sup>

9) Promotion of self-employment schemes and localised small-scale industries in the rural areas along with a revival of agricultural and other traditional skills and crafts in conjunction with appropriate new technology.

11) Other measures could include creches attached to schools so that young children involved in looking after siblings can attend school, and an active programme to prevent school drop-outs.

12) Special facilities are required for urban street children in terms of shelter, medical aid, protection from exploitative forces, non-formal education and other development programmes, in combination with their current occupation.

13) Experience indicates that many good alternatives and feasible programmes are wasted due to a lack of training of the implementing staff. The Task Force recommends National and Zonal Institutes for research and training related to child labour.

14) The Task Force also recommends a comprehensive code to be known as the Child Code of India, which would include a child Labour Code and would provide a total perspective.

## Long Term Measures

To achieve the goal of eventual eradication of child labour at the micro level immediate interventions need to be made at the macro policy level.

- 1) Provision of sufficiently paid employment opportunities for adults becomes a key factor in working out alternatives to child labour. Parliament must pledge a firm national commitment to full employment for all adults and initiate more effective measures to promote employment-oriented development in rural areas.
- 2) Development of the community from which children are entering the labour force. This would include improvement of the quality of the land, promotion of sustainable forms of agriculture, restoration of land rights, conservation of forests and water resources and assistance to small and marginal holders of land.
- 3) The progressive extension of economic and social measures to alleviate poverty wherever it exists and to ensure family living standards and income which are adequate such as to make it unnecessary to have recourse to the economic activity of children.

The massive problem of child labour in India can be solved only if all — or, to begin with, at least some — of the measures listed are immediately considered and acted upon. To achieve the goal of eventual eradication of child labour at the micro level immediate interventions need to be made at the macro policy level.

The strategies that can be worked at to improve the situation constitute an extensive list; some of these lists have been outlined here. It can be added to by you. However it is important that such plans and intentions are translated by you into effective action. It is upto you to bridge the gap between promises and practice.

The basic human rights of children must become a principle upon which our goals of development are based.

It is upto you as a representative of the future voters of India, to act on their behalf — starting now.

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I would like to associate myself with the campaign in the following manner :

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